

192-08/GMV
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FEDERAL INSURANCE COMPANY and
MARAN, INC.

Plaintiffs

- versus -

M/V MSC CHINA, her engines, boilers,
tackle, etc., POWER LINK LOGISTICS INC.,
SAFMARINE CONTAINER LINES N.V.

Defendants.

08-cv-01806 (SHS)

NOTICE OF MOTION TO DISMISS

PLEASE TAKE NOTICE that, pursuant to Federal Rules of Civil Procedure 12(b)(3) or 12(c), and upon the annexed Declaration of William J. Bender dated May 12, 2008, and the exhibits thereto; the accompanying memorandum of law; and the pleadings filed herein (including Plaintiffs' Verified Complaint, ECF No. 1; and Co-Defendant Power Link's Answer with Cross-Claim, ECF No. 6), Defendant Safmarine Container Lines N.V. ("Safmarine") will move the Court before the Honorable Sidney H. Stein, United States District Judge, in Courtroom 23A, in the United States Courthouse, 500 Pearl Street, New York, New York, on a date and time to be established by the Court, for an order dismissing Plaintiffs' complaint against Safmarine and Powerlink's cross-claim against Safmarine based upon the mandatory forum selection clause contained in Safmarine's sea waybill applicable to the subject carriage which clause provides that "any claim or dispute" arising under the waybill shall "exclusively be

determined” by the courts of Antwerp, Belgium “(to the exclusion of the jurisdiction of the courts of any other place).”

In the alternative, and only if the mandatory forum selection clause is not enforced and all claims against Safmarine not dismissed based upon that clause, Defendant Safmarine will move for dismissal of Plaintiffs’ complaint and Powerlink’s cross-claim on the grounds of *forum non conveniens*.

PLEASE TAKE FURTHER NOTICE that in accordance with the schedule previously set by the Court, opposition papers shall be served and filed on or before May 30, 2008, and any further reply is due on or before June 15, 2008.

DATED: New York, New York
May 16, 2008

Respectfully submitted,

/s/ Gina M. Venezia
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CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2008, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF, which will automatically send email notification of such filing to all attorneys of record. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the below Service List in the manner specified, either via transmission of Notice of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronic Notice of Electronic Filing.

VIA CM/ECF:

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